IN THE

Supreme Court of the United States

Sitting in Equity.

No. 23, Original.

October Term, 1919.

THE COMMONWEALTH OF PENSYLVANIA,
Complainant,
vs.
THE STATE OF WEST VIRGINIA, *Defendant.*

No. 24, Original.

October Term, 1919.

THE STATE OF OHIO, *Complainant,*
vs.
THE STATE OF WEST VIRGINIA, *Defendant.*

Brief for Defendant in Support of Motions for Consolidation, Appointment of Commissioner and Other Directions.

I.

CONSOLIDATION.

As the two cases involve the validity of the same statute of West Virginia, attacked on similar grounds; the bills of complaint filed contemporaneously make substantially the same allegations, with few exceptions not very

public law, determinable by this Court under the exceptional grant of power conferred on it by the Constitution," in the disposition of which not "the more restricted rules applicable to individuals," but "the largest justice" is to enter, and the result sought is that "most consonant with the honor and dignity of both parties to the controversy." *(Virginia v. West Virginia,* 234 U. S. 117, 121.) It is respectfully submitted that in this situation, it is becoming that the proofs should reach the consideration of this Court, unembarrassed by those assumptions which arise in favor of a master's findings, so that the ultimate conclusion may unqualifiedly rest in the adjudication of this Court, as the original and final arbiter between sovereign states, under the Constitution.

III.

TIME FOR PROOFS.

Recognizing that the measure of a state's celerity is "all deliberate speed," it is nevertheless true that "a question like the present should be disposed of without undue delay." *(Virginia v. West Virginia,* 222 U. S. 17, 19, 20.) As by preliminary injunctions the defendant has been prevented from enforcing what, in the view of its legislature and people, is a necessary police regulation, it is believed that the time for taking and concluding the proofs on each side ought to be equitably and definitely limited, to the end that these cases may be brought to final hearing, if not at the current term, then very early in the October Term, 1920.

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